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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/508,635	05/18/2000	OLIVIER BALLEVRE	P00.0164	7617
29157	7590	11/19/2004	EXAMINER	
BELL, BOYD & LLOYD LLC P. O. BOX 1135 CHICAGO, IL 60690-1135			LUKTON, DAVID	
			ART UNIT	PAPER NUMBER

1653

DATE MAILED: 11/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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09/508,635

EXAMINER
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ART UNIT	PAPER
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20041101

DATE MAILED:

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**Commissioner for Patents**

Please see the attached communication regarding the response filed 7/22/04, and the Office action mailed 10/14/04

The Office action mailed 10/14/04 is vacated herewith.

The following Office action will supplant the Office action mailed 10/14/04.

. . . . .

The reply filed on 7/22/04 is not fully responsive to the prior Office action because of the following matter (See 37 CFR 1.111):

All of the claims (claims 30, 32-35 and 37-41) submitted in the response filed 7/22/04 are directed to an invention that is independent or distinct from the invention originally claimed. At the time of filing of the RCE (11/28/03), the claims were drawn to a method of promoting "recovery" of an organ. None of the claims was drawn to a method of promoting growth of an organ, and none was drawn to a method of increasing the rate of protein synthesis, or increasing protein concentration. As is evident from the specification (page 8, lines 19-23), "recovery" of an organ is intended to encompass treatment of an inflammatory condition of the organ, and to encompass wound healing following a surgical procedure. This invention ("recovery" of an organ) is fundamentally distinct from a method of increasing the rate of protein synthesis, or a method of increasing protein concentration (or a method of increasing growth of an organ). Protein synthesis is a process that occurs in all healthy mammals, and indeed in all eukaryotic cells; protein synthesis requires an amino acid source. By contrast, promoting "recovery" of an organ is an invention which encompasses treatment of an inflammatory disease of an organ. The fact that a given protein source may be effective to increase

protein synthesis in a given organ (or may be effective to increase the “growth” of an organ) does not mean, or suggest that the protein source in question will be effective to treat an inflammatory disorder of that organ.

Accordingly, all of the claims submitted in the response filed 7/22/04 are drawn to a non-elected invention.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, all of the (currently pending) claims are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP §821.03.

Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a)**

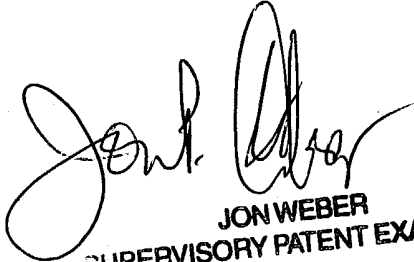


Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Lukton whose telephone number is 571-272-0952. The examiner can normally be reached Monday-Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon Weber, can be reached at 571-272-0925. The fax number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.

D. Lukton 11/16/04

  
JON WEBER  
SUPERVISORY PATENT EXAMINER